

DALE I. PATCHEN
GUY W. PATCHEN

IBLA 81-534

Decided January 26, 1982

Appeal from decision of the Idaho State Office, Bureau of Land Management, declaring unpatented mining claims abandoned and void. I MC 42477 through I MC 42497.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment--Mining Claims: Abandonment

The failure to file the instruments required by sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1 and 3833.2 in the proper Bureau of Land Management office within the time periods prescribed therein conclusively constitutes abandonment of the mining claim by the owner.

2. Administrative Authority: Generally--Federal Employees and Officers: Authority to Bind Government

Reliance upon erroneous or incomplete information provided by Federal employees does not create any rights not authorized by law.

3. Notice: Generally--Regulations: Generally--Statutes

All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

APPEARANCES: Dale I. Patchen and Guy W. Patchen, pro sese.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

Dale I. Patchen and Guy W. Patchen appeal from the April 1, 1981, decision of the Idaho State Office, Bureau of Land Management (BLM), which declared 21 unpatented lode mining claims (I MC 42477 through I MC 42497) abandoned and void for failure to file evidence of assessment work or notice of intention to hold for calendar year 1980, as required by section 314(a) of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744(a) (1976), and 43 CFR 3833.2. These claims were located on various dates from 1947 to 1954 in the Kaniksa National Forest in T. 64 N., R. 2 E., Boise meridian, Boundary County, Idaho.

In their statement of reasons for appeal, appellants assert that they have not abandoned these claims. They have submitted a copy of their 1980 affidavit of assessment work as filed with the Boundary County Clerk. They assert that their failure to file this document with BLM was inadvertent and due to misinformation from BLM.

[1] The statute and regulation cited above impose a conclusive presumption of abandonment of a mining claim for any failure to file the required documents in the proper BLM office by the due dates. This Board has no authority to excuse lack of compliance with the statute or to afford relief from the statutory consequences. Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981).

[2, 3] Reliance upon erroneous or incomplete information provided by Federal employees does not create rights not authorized by law. The responsibility for compliance with the recordation requirements rested with the appellants. Dave R. Newman, 57 IBLA 23 (1981). Persons who deal with the Government are presumed to have knowledge of the law and duly promulgated regulations. 44 U.S.C. §§ 1507, 1510 (1976); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947).

The circumstances relating to appellant's failure to file are unfortunate, but the statute allows this Board no discretion. Appellants should confer with BLM about the possibility of relocating their claims.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the Idaho State Office is affirmed.

James L. Burski
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Edward W. Stuebing
Administrative Judge

APPENDIX

| <u>BLM Serial Number</u> | <u>Claim Name</u> | <u>Location Date</u> |
|--------------------------|-------------------|----------------------|
| I MC 42477 | Joker #1 | July 9, 1947 |
| I MC 42478 | Joker #2 | July 9, 1947 |
| I MC 42479 | Joker #3 | July 9, 1947 |
| I MC 42480 | Joker #4 | April 16, 1951 |
| I MC 42481 | Joker #5 | September 3, 1954 |
| I MC 42482 | Eagle Point #8 | October 21, 1948 |
| I MC 42483 | Gem-State #1 | April 17, 1951 |
| I MC 42484 | Gem-State #2 | April 17, 1951 |
| I MC 42485 | Gem-State #3 | April 19, 1951 |
| I MC 42486 | Gem-State #4 | April 20, 1951 |
| I MC 42487 | Gem-State #5 | April 20, 1951 |
| I MC 42488 | Gem-State #6 | April 21, 1951 |
| I MC 42489 | Gem-State #8 | September 3, 1954 |
| I MC 42490 | Eagle Point #1 | September 1, 1947 |
| I MC 42491 | Eagle Point #2 | October 15, 1947 |
| I MC 42492 | Eagle Point #3 | October 15, 1947 |
| I MC 42493 | Eagle Point #4 | October 15, 1947 |
| I MC 42494 | Eagle Point #5 | October 21, 1948 |
| I MC 42495 | Eagle Point #6 | October 21, 1948 |
| I MC 42496 | Eagle Point #7 | November 17, 1948 |
| I MC 42497 | Gem-State #7 | September 10, 1954 |

